

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

Civil Action No. 12-cv-00487-MOC-DCK

DAVID HOLMES, individually and on behalf
of a Rule 23 putative class,

Plaintiff,

v.

BANK OF AMERICA, N.A., in its own
capacity and as successor by merger to
BAC Home Loans Servicing, L.P., and
ILLINOIS UNION INSURANCE
COMPANY

Defendants.

**BANK OF AMERICA'S MOTION TO
DISMISS**

Defendant Bank of America, N.A., in its own capacity and as successor by merger to BAC Home Loans Servicing, L.P, by and through its undersigned attorneys and pursuant to Federal Rule of Civil Procedure 12(b)(6), moves to dismiss the Complaint filed against it by Plaintiff David Holmes ("Plaintiff") as Plaintiff fails to state a claim upon which relief can be granted. The grounds for this Motion are more fully set forth in the accompanying Memorandum of Law, which is incorporated herein by reference.

WHEREFORE, Defendant Bank of America, N.A. respectfully requests that the Court grant its motion and dismiss Plaintiff's Complaint with prejudice and grant such other and further relief as justice may require.

Dated: September 28, 2012

Respectfully submitted:

/s/ David L. Permut

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itself and as successor by merger to BAC Home
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CERTIFICATE OF SERVICE

I, David L. Permut, certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 28, 2012.

Dated: September 28, 2012

/s/ David L. Permut